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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

04/01/2009

Stacey J. Longanecker
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington, DC 20036

EXAMINER

NASSER, ROBERT L

ART UNIT

PAPER NUMBER

3735

DATE MAILED: 04/01/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,209	09/10/2003	Barry H. Ginsberg	45716	3221

TITLE OF INVENTION: APPARATUS AND METHOD FOR MONITORING BLOOD GLUCOSE LEVELS INCLUDING CONVENIENT DISPLAY OF BLOOD GLUCOSE VALUE AVERAGE AND CONSTITUENT VALUES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/01/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax **(571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 04/01/2009

Stacey J. Longanecker
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 Suite 600
 1300 19th Street, N.W.
 Washington, DC 20036

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/01/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
NASSER, ROBERT L	3735	600-365000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Suite 600
1300 19th Street, N.W.
Washington, DC 20036

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 532 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 532 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/658,209

Examiner

ROBERT L. NASSER

Applicant(s)

GINSBERG, BARRY H.

Art Unit

3735

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone conversation of 3/6/2009.
2. ☒ The allowed claim(s) is/are 16-21, 35-42, 43, 53-62, 65, 67-69.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stacey Longanecker on March 26, 2009.

The application has been amended as follows:

Claims 6, 7, 27, 28, and 43 have been canceled.

Claim 16 has been rewritten as follows:

-- 16. (currently amended) A method of annunciating a patient's medical data levels using a medical data level monitoring device comprising the steps of:

storing medical data levels with the corresponding dates and times of day the respective medical data levels were taken;

calculating using a processing device an average medical data level from at least a first medical data level and a second medical data level selected from the stored medical data levels;

annunciating said average medical data level;

receiving a first user input to annunciate said first medical data level;

annunciating said first medical data level;

receiving a second user input to annunciate said second medical data level; and

annunciating said second medical data level;

wherein said calculating step further comprises the steps of

selecting the stored medical data levels used to determine said average medical data level based on the date and time of day the stored medical data levels were taken;

defining a time period during a day when the average medical data level is desired for that time period on each of a selected number of days;

receiving a user input requesting an average medical data level of said time period for a selected number of days beginning with the current day;

determining if said time period has been entered or passed on said current day;

using a reading of an medical data level taken during the time period for said current day when determining said average medical data level if said time period has been entered or has passed for the current day; and

selecting a stored medical data level taken on the previous day when determining said average medical data level if said time period has yet not been entered or passed for the current day. --

Claim 54 has been rewritten as follows:

-- 54. (currently amended) A method of displaying blood glucose levels using a blood glucose meter comprising the steps of:

storing blood glucose levels with the corresponding dates and times of day the respective blood glucose levels were taken;

calculating using a processing device an average blood glucose level from at least a three of the stored blood glucose levels as the constituent values;

displaying the average blood glucose level using a display device of said blood glucose meter;

receiving a first user input to display a first one of the constituent values;

displaying the first one of the constituent values in response to the first user input;
receiving a second user input to display a second one of the constituent values;
and
displaying the second one of the constituent values in response to the second user input;
wherein said calculating step further comprises the steps of
defining a time period during a day when the average blood glucose level is desired for that time period on each of a selected number of days;
receiving a user input requesting an average blood glucose level of said time period for a selected number of days beginning with the current day;
determining if said time period has been entered or passed on said current day;
using a reading of an blood glucose level taken during the time period for said current day when determining the average blood glucose level if said time period has been entered or has passed for the current day; and
selecting a stored blood glucose level taken on the previous day when determining the average blood glucose level if said time period has yet not been entered or passed for the current day. --

Claim 60 has been rewritten as follows:

--60. (currently amended) A method of displaying blood glucose levels using a blood glucose meter comprising the steps of:

storing blood glucose levels with the corresponding dates and times of day the respective blood glucose levels were taken;

calculating using a processing device_an average blood glucose level from at least a three of the stored blood glucose levels as the constituent values;

displaying the average blood glucose level using a display device of said blood glucose meter; and

displaying the constituent values at least one of substantially simultaneously with said average blood glucose level, and after the average blood glucose level using sequential display screens for respective ones of the average blood glucose level and the constituent values that can be generated in a round robin manner;

wherein said calculating step comprises the steps of

selecting the stored blood glucose levels used to determine said average blood glucose level based on the date and time of day the stored blood glucose levels were taken;

defining a time period during a day when the average blood glucose level is desired for that time period on each of a selected number of days;

receiving a user input requesting an average blood glucose level of said time period for a selected number of days beginning with the current day;

determining if said time period has been entered or passed on said current day;

using a reading of an blood glucose level taken during the time period for said current day when determining the average blood glucose level if said time period has been entered or has passed for the current day; and

selecting a stored blood glucose level taken on the previous day when determining the average blood glucose level if said time period has yet not been entered or passed for the current day. --

Claims 6, 7, 27, 28, and 43 were canceled to from this application to expedite allowance and applicant indicate that these claims would potentially be pursued in a continuing application.

Claims 16, 54, and 60 were amended to tie the calculating to technology, i.e. to a processing device, to make the claim statutory, According to current office practice.

Claims 15-21, 35, 36, 38-43, 53-62, 65, and 67-69 are allowable in that none of the art selects a stored data point to display if the time period has not passed, as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT L. NASSER whose telephone number is (571)272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert L. Nasser Jr/
Primary Examiner
Art Unit 3735

RLN
March 29, 2009